

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

CARMEN RILEY, Administrator	:	
of the Estate of TY'RIQUE	:	CIVIL ACTION NO. 4:20-cv-325
RILEY, CARMEN RILEY, and	:	
THOMAS MATTHEW,	:	
Plaintiffs	:	
v.	:	
	:	JURY TRIAL DEMANDED
BRIAN CLARK, Warden, et al.,	:	
Defendants	:	

**BRIEF IN SUPPORT OF DEFENDANTS' JOINT MOTION TO STRIKE
PLAINTIFFS' SUPPLEMENTS TO PLAINTIFFS' BRIEFS IN
OPPOSITION TO ALL DEFENDANTS' MOTIONS FOR SUMMARY
JUDGMENT**

Respectfully submitted,

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Defendants

DATE: July 15, 2024

I. PROCEDURAL HISTORY

On April 9, 2021, Plaintiffs filed a Second Amended Complaint against all Defendants. (DOC. 64). All Defendants subsequently filed Motions for Summary Judgment. (DOCS. 157, 160, 164, 173). 6. Plaintiffs filed Briefs in Opposition to all Defendants' Motions for Summary Judgment. (DOCS. 184, 188, 190, 192). All Defendants filed Reply Briefs to each of Plaintiffs' Briefs in Opposition. (DOCS. 211, 213, 214, 217). On June 28, 2024, Plaintiffs filed a "Supplement" to each of their Briefs in Opposition to Defendants' Motions for Summary Judgment. (DOC. 218, 219, 220, 221).

II. QUESTIONS PRESENTED

Should this Court grant Defendants' Motion to Strike Plaintiffs' Supplements to Plaintiffs' Briefs in Opposition to Defendants' Motions for Summary Judgment as Plaintiffs did not seek leave of Court?

Suggested Answer: Yes

III. ARGUMENT

This Court's Local Rules allow a party to file a brief in reply to matters argued in a brief in opposition but prohibit a party from filing any further brief "without leave of court." (M.D. PA. Civ. R. 7.7).¹ Local Rule 7.7 provides that additional

¹ Available at: <https://www.pamd.uscourts.gov/sites/pamd/files/LR120114.pdf>.

briefing may not be filed without leave of court. *Beckerman v. Weber*, 2007 U.S. Dist. LEXIS 58092,*12, (M.D. Pa. Aug. 9, 2007); *see also, Moore v. Wetzel*, 2019 U.S. Dist. LEXIS 37424, at *3 (M.D. Pa. Mar. 8, 2019) (stating that Local Rule 7.7 provides that no further briefs, beyond a movant's reply brief, may be filed without leave of court); *and see, Johnson v. Miskell*, 2018 U.S. Dist. LEXIS 98511 at *12 (M.D. Pa. June 12, 2018) (stating that Local Rule 7.7 requires leave of court before filing sur-reply briefs and, where a court determines that it wishes further briefing of an issue, the court may order and accept additional briefing materials) (citation omitted). Plaintiffs did not seek leave of Court before filing their Supplements to their Briefs in Opposition, and therefore did not comply with Local Rule 7.7. Plaintiffs' Supplements should be stricken for failing to comply with Middle District Local Rule 7.7.

IV. CONCLUSION

WHEREFORE, all Defendants respectfully request that this Honorable Court strike Plaintiffs' Supplements to their Briefs in Opposition to Defendants' Motions for Summary Judgment for failing to comply with Local Rule 7.7 or, in the alternative, allow all Defendants to submit written responses to Plaintiffs' Supplements.

Respectfully submitted,

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DATE: July 15, 2024

CERTIFICATE OF SERVICE

I, Aimee L. Paukovits, an employee with the law firm of Lavery Law, do hereby certify that on this 15th day of July, 2024, I served a true and correct copy of the foregoing via the United States District Court for the Middle District's ECF on all counsel of record:

s/ Aimee L. Paukovits
Aimee L. Paukovits
Senior Legal Administrative Assistant